

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-252V

Filed: May 3, 2022

UNPUBLISHED

WAYNE STEPHEN FAULK, on behalf
of the Estate of JEFFREY WAYNE
FAULK,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Joint Stipulation on Damages;
Hepatitis B vaccine; Guillain-Barre
Syndrome ("GBS")

Milton Clay Ragsdale IV, Ragsdale LLC, Birmingham, AL, for petitioner.
Nina Ren, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON JOINT STIPULATION¹

On February 22, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act"). After his passing on March 22, 2017, Wayne Stephen Faulk, as legal representative of the Estate of Jeffrey Wayne Faulk, was substituted as petitioner. (ECF Nos. 13, 14.) Petitioner alleges that Mr. Jeffrey Wayne Faulk suffered Guillain-Barre Syndrome ("GBS") caused-in-fact by his Hep B vaccine administered on April 24, 2014. Petition at 1; Stipulation, filed May 3, 2022, at ¶ 4. Petitioner further alleges that he experienced the residual effects of his condition for more than six months, that there has been no prior award or settlement of a civil action for damages as a result of his condition, and that his vaccine was administered in the United States. Petition at 3-4; Stipulation at ¶¶ 3-5. "Respondent denies that the Hep B vaccine caused the

¹ Because this decision contains a reasoned explanation for the special master's action in this case, it will be posted on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. See 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). **This means the decision will be available to anyone with access to the Internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information the disclosure of which would constitute an unwarranted invasion of privacy. If the special master, upon review, agrees that the identified material fits within this definition, it will be redacted from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

decedent's alleged GBS or any other injury, and denies that the decedent's alleged injury and eventual death are sequelae of a vaccine-related injury." Stipulation at ¶ 6.

Nevertheless, on May 3, 2022, the parties filed the attached joint stipulation, stating that a decision should be entered awarding compensation. I find the stipulation reasonable and adopt it as the decision of the Court in awarding damages, on the terms set forth therein.

Pursuant to the terms stated in the attached Stipulation, **I award the following compensation:**

A lump sum of \$80,000.00 in the form of a check payable to petitioner, as legal representative of the Estate of Jeffrey Wayne Faulk. Stipulation at ¶ 8. This amount represents compensation for all items of damages that would be available under § 15(a). *Id.*

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Daniel T. Horner
Daniel T. Horner
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

**WAYNE STEPHEN FAULK, on behalf of
the Estate of JEFFREY WAYNE FAULK.**

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES.

Respondent.

No. 17-252V
Special Master Horner
ECF

STIPULATION

The parties hereby stipulate to the following matters:

1. Jeffrey Wayne Faulk (“decedent”), filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 to -34 (the “Vaccine Program”). After his passing on March 22, 2017, Wayne Stephen Faulk, as legal representative of the Estate of Jeffrey Wayne Faulk, was substituted as petitioner. The petition seeks compensation for injuries allegedly related to the decedent’s receipt of a Hepatitis B (“Hep B”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a).

2. The decedent received the Hep B vaccine on April 24, 2014.

3. The vaccination was administered within the United States.

4. Petitioner alleges that the decedent developed Guillain-Barré Syndrome (“GBS”) which was caused-in-fact by the Hep B vaccine. Petitioner further alleges that the decedent experienced the residual effects of this injury for more than six months.

5. Petitioner represents that there has been no prior award or settlement of a civil action

for damages as a result of the decedent's alleged injuries and death.

6. Respondent denies that the Hep B vaccine caused the decedent's alleged GBS or any other injury, and denies that the decedent's alleged injury and eventual death are sequelae of a vaccine-related injury.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payment:

A lump sum of \$80,000.00 in the form of a check payable to petitioner, as legal representative of the Estate of Jeffrey Wayne Faulk. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Payment made pursuant to paragraph 8 of this Stipulation and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds

11. Petitioner represents that he presently is, or within 90 days of the date of judgment will become, duly authorized to serve as the legal representative of Jeffrey Wayne Faulk's estate

under the laws of the State of Alabama. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing his appointment as legal representative of the decedent's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as legal representative of the estate of Jeffrey Wayne Faulk at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as legal representative of the estate of Jeffrey Wayne Faulk upon submission of written documentation of such appointment to the Secretary.

12. In return for the payments described in paragraphs 8 and 9, petitioner, individually and in his capacity as the personal representative of the Estate of Jeffrey Wayne Faulk, on his own behalf, and on behalf of the Estate and the decedent's heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of the decedent resulting from, or alleged to have resulted from, the Hep B vaccination administered on April 24, 2014, as alleged by petitioner in a petition for vaccine compensation filed on or about February 22, 2017, in the United States Court of Federal Claims as petition No. 17-252V.

13. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a

decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this Stipulation shall be voidable at the sole discretion of either party.

14. This Stipulation expresses a full and complete negotiated settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, *as amended*, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

15. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the Hep B vaccine caused the decedent's alleged GBS, any other injury, or his death.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns as legal representatives of the Estate of Jeffrey Wayne Faulk.

END OF STIPULATION

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Respectfully submitted,

PETITIONER:

Wayne S Faulk

WAYNE STEPHEN FAULK,
on behalf of the Estate of
JEFFREY WAYNE FAULK

**ATTORNEY OF RECORD FOR
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**AUTHORIZED REPRESENTATIVE
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George R. Grimes Digitally signed by George R.
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Dated: *5/3/2022*